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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

CRIMINAL NO. 10-20535

v.

HONORABLE DAVID M. LAWSON

D-8 BRIAN DODDS,

Defendant.

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**FIRST SUPERSEDING INFORMATION**

THE UNITED STATES ATTORNEY CHARGES:

**GENERAL ALLEGATIONS**

**A. INTRODUCTION**

1. At all times relevant to this Information, Ferguson Enterprises, Inc., also known as Ferguson's Enterprises, Inc., was a corporation formed under the laws of the State of Michigan.
2. At all times relevant to this Information, Bobby W. Ferguson was the owner and operator of Ferguson Enterprises, Inc., also known as Ferguson's Enterprises, Inc.
3. In or about March of 2002, Bobby W. Ferguson established XCEL Construction Services, Inc. as a corporation formed under the laws of the State of Michigan. At all times relevant to this Information, Bobby W. Ferguson controlled and directed the activities and operations of XCEL Construction Services, Inc.

4. At the direction of Bobby W. Ferguson, beginning on or about January 1, 2006, Michael Woodhouse became the President of XCEL Construction Services, Inc.

5. At all times relevant to this Information, D & R Earthmoving, LLC was a corporation formed under the laws of the State of Michigan.

6. At all times relevant to this Information, BRIAN DODDS was an officer and 50% owner of D & R Earthmoving, LLC.

**B. THE GARDEN VIEW ESTATES PROJECT**

7. The Garden View Estates, formerly known as the Herman Gardens, was a multi-unit housing development located in Detroit, Michigan being developed on behalf of the U.S. Department of Housing and Urban Development and the Detroit Housing Commission. The Garden View Estates projected occupies approximately 139 acres of land bounded by Joy Road to the north, Tireman Avenue to the south, Asbury Park Avenue to the east and the Southfield Expressway service drive to the west.

8. Between 1996 and 2005, the U.S. Department of Housing and Urban Development committed in excess of \$24,000,000.00 in federal Hope VI revitalization grants and in excess of \$19,500,000.00 in federal Major Reconstruction of Obsolete Public Housing ("MROP") funds to be used for the demolition of the former Herman Gardens and the construction of the Garden View Estates public housing development.

9. As part of the development of the Garden View Estates, in and before 2006, the City of Detroit agreed to provide a total capital outlay of \$13,726,544.00 in funds to design, construct and inspect infrastructure related improvements, that is, the installation of roads, water,

sanitary, sewer and electrical services at the Garden View Estates project. The various departments of the City of Detroit retained the Detroit Building Authority to oversee the installation of roads, water, sanitary, sewer and electrical infrastructure services at the Garden View Estates project.

10. In October of 2006, the Detroit Building Authority issued a Request for Proposals for a qualified firm to act as the Construction Manager for the infrastructure improvements at the Garden View Estates project.

11. In December of 2006, the U.S. Department of Housing and Urban Development and the Detroit Housing Commission agreed to provide the additional amount of \$2,000,000.00 to pay for infrastructure construction costs at the Garden View Estates project.

12. In January of 2007, the Detroit Building Authority entered into a written contract with XCEL Construction Services, Inc. to act as the Construction Manager in connection with the construction of infrastructure improvements at the Garden View Estates project. Pursuant to that contract, the Detroit Building Authority agreed to pay XCEL Construction Services, Inc. a lump sum professional fee of \$557,512.00. Among other services, XCEL Construction Services, Inc. agreed to take competitive bids from contractors seeking to provide demolition, earthwork, utilities and concrete services at the Garden View Estates Project. XCEL Construction Services, Inc. further agreed that any contracts it entered into as part of the Garden View Estates Project would be conducted in compliance with all federal, state and local statutes, rules, regulations and orders applicable to that work.

**C. CONSPIRACY TO DEFRAUD THE UNITED STATES**

13. Beginning in or before March of 2006 and continuing through in or after August of 2010, said dates being approximate, in the Eastern District of Michigan, and elsewhere, Bobby W. Ferguson, Michael Woodhouse, Ferguson Enterprises, Inc., and XCEL Construction Services, Inc. willfully conspired and agreed with one another and with others, to defraud the United States and one or more of its agencies and departments, that is, to obtain and to attempt to obtain by dishonest means through false and fraudulent pretenses and representations, more than \$10,000,000.00 in public works contracts awarded as part of the Garden View Estates project.

14. As part of the conspiracy to defraud the United States, Bobby W. Ferguson recruited and directed BRIAN DODDS and D & R Earthmoving LLC to submit false and fraudulently inflated bid for the primary contract to perform demolition, earthwork, utilities and concrete services at the Garden View Estates project as part of a dishonest scheme to make it appear that Ferguson Enterprises, Inc. was the low bidder for the primary contract to perform demolition, earthwork, utilities and concrete services at the Garden View Estates project.

15. On or about April 2, 2007, BRIAN DODDS agreed to have a false and fraudulent Project Bid Proposal Form prepared and submitted in the name of D & R Earthmoving, LLC.

**COUNT ONE**  
**(18 U.S.C. § 4**  
**Misprision of Felony)**

1. The General Allegations are incorporated by reference as if set forth in full herein.
2. Beginning in or before March of 2007 and continuing until April of 2009, in the

Eastern District of Michigan, and elsewhere, defendant BRIAN DODDS, having knowledge of the actual commission of a felony cognizable by a court of the United States, that is, conspiracy to defraud the United States in violation of Title 18, United States Code, Sections 371, did conceal the same by false and misleading statements and by providing incomplete and misleading testimony before a grand jury in February of 2009, and did not, as soon as possible, make known the same to some judge or other person in civil or military authority under the United States.

All in violation of Title 18, United States Code, Section 4.

BARBARA L. MCQUADE  
United States Attorney

A handwritten signature in black ink, appearing to read "Bruce C. Judge", followed by a long horizontal line extending to the right.

BRUCE C. JUDGE  
Assistant U.S. Attorney

Dated: September 23, 2010

United States District Court Eastern District of Michigan	<b>Criminal Case Cover Sheet</b>	<b>Case Number</b> 10-20535
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NOTE: It is the responsibility of the Assistant U.S. Attorney signing this form to complete it accurately in all respects.

**Reassignment/Recusal Information** This matter was opened in the USAO prior to August 15, 2008 [X]

<b>Companion Case Information</b>	<b>Companion Case Number:</b>
This may be a companion case based upon LCrR 57.10 (b)(4) <sup>1</sup> :	<b>Judge Assigned:</b>
<input type="checkbox"/> Yes <input type="checkbox"/> No	<b>AUSA's Initials:</b> BID

**Case Title:** USA v. Brian Dodds

**County where offense occurred :** Wayne

**Check One:** ☒ **Felony**

☐ **Misdemeanor**

☐ **Petty**

☐ Indictment/ ☐ Information --- no prior complaint.

☐ Indictment/ ☐ Information --- based upon prior complaint [Case number]

☐ Indictment/ ☒ Information --- based upon LCrR 57.10 (d) [Complete Superseding section below].

### **Superseding Case Information**

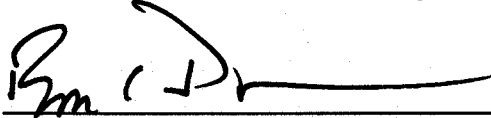
**Superseding to Case No:** 10-20535

**Judge:** David M. Lawson

- ☐ Original case was terminated; no additional charges or defendants.
- ☐ Corrects errors; no additional charges or defendants.
- ☐ Involves, for plea purposes, different charges or adds counts.
- ☒ Embraces same subject matter but adds the additional defendants or charges below:
- |                              |                       |   |
|------------------------------|-----------------------|---|
| <b><u>Defendant name</u></b> | <b><u>Charges</u></b> | <b><u>Prior Complaint (if applicable)</u></b> |
| Brian Dodds                  | 18 U.S.C. § 4         | Misprision of Felony                          |

**Please take notice that the below listed Assistant United States Attorney is the attorney of record for the above captioned case.**

September 23, 2010  
Date

  
BRUCE C. JUDGE  
Assistant United States Attorney  
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<sup>1</sup> Companion cases are matters in which it appears that (1) substantially similar evidence will be offered at trial, (2) the same or related parties are present, and the cases arise out of the same transaction or occurrence. Cases may be companion cases even though one of them may have already been terminated.